

Message Text

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APPROVED BY EB/CBA/BP - MR. WINTER

EUR/CE - B. FLATIN

EUR/WE - K. SHIRLEY

EUR/RPE - R. HARDING

JUSTICE - J. DAVIDOW (SUB)

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P R 022117Z DEC 74

FM SECSTATE WASHDC

TO AMEMBASSY THE HAGUE PRIORITY

AMEMBASSY BERN PRIORITY

INFO USMISSION OECD PARIS

UNCLAS STATE 264194

E.O. 11652:N/A

SUBJECT: ANTITRUST: DIAMOND TRADE

1. THE DEPARTMENT OF JUSTICE HAS BEEN CONDUCTING AN INVESTIGATION BEFORE A FEDERAL GRAND JURY TO DETERMINE WHETHER CERTAIN US AND FOREIGN CORPORATIONS WHICH PRODUCE AND SELL DIAMOND GRIT IN THE UNITED STATES AND ELSEWHERE COMBINED AND CONSPIRED TO FIX, STABILIZE, AND RAISE PRICES AND ALLOCATE MARKETS AND CUSTOMERS IN THE PERIOD MARCH 1967 TO THE PRESENT IN VIOLATION OF SECTION 1 OF THE SHERMAN ANTITRUST ACT.

2. THE INVESTIGATION IS NEARLY COMPLETE, AND, SINCE THE EFFECTIVE LIFE OF THE GRAND JURY WILL END ON DECEMBER 11, 1974, ANY CRIMINAL INDICTMENTS WHICH MAY RESULT FROM THE UNCLASSIFIED

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INVESTIGATION ARE LIKELY TO BE ISSUED WITHIN THE NEXT FEW

WEEKS. THOUGH IT IS DOUBTFUL THAT ANY FOREIGN COMPANIES FROM OECD COUNTRIES WILL BE NAMED AS DEFENDANTS IN ANY CRIMINAL CASE, THERE IS THE POSSIBILITY THAT D. DRUKKER & ZN NV OF AMSTERDAM, HOLLAND AND ESKENAZI SA OF GENEVA, SWITZERLAND MAY BE NAMED AS UNINDICTED CO-CONSPIRATORS. IN ADDITION, A COMPANION CIVIL SUIT MAY BE BROUGHT BY THE DEPARTMENT, IN WHICH D. DRUKKER & ZN NV AND ESKENAZI SA MAY BE NAMED AS CO-CONSPIRATORS, TO ENJOIN ANY FUTURE INTERNATIONAL SCHEMES TO FIX AND STABILIZE PRICES, AND ALLOCATE CUSTOMERS AND TERRITORIES IN DIAMOND GRIT SALES.

3. SINCE THE DUTCH AND SWISS COMPANIES ARE POSSIBLE CO-CONSPIRATORS, AND THE CONTEMPLATED RELIEF WOULD BAN FUTURE INTERNATIONAL RESTRICTIVE AGREEMENTS, OF THE TYPE COMPLAINED OF, AMONG DEFENDANTS AND CO-CONSPIRATORS, WE BELIEVE IT IS APPROPRIATE THAT, PURSUANT TO THE 1967 OECD RECOMMENDATION ON ANTITRUST ACTIONS, ADDRESSEE EMBASSIES NOTIFY THE DUTCH AND SWISS GOVERNMENTS OF THIS MATTER.

4. ACTION:

(A) AMEMBASSY THE HAGUE: PLEASE NOTIFY GOVERNMENT OFFICIALS ABOUT POSSIBLE GRAND JURY INDICTMENT AND COMPANION CIVIL SUIT INVOLVING DUTCH FIRM PURSUANT TO THE 1967 OECD NOTIFICATION PROCEDURE ON ANTITRUST ACTIONS. ACCORDING TO THE OECD, NOTIFICATION SHOULD BE MADE TO THE DIRECTOR OF PRICES AND COMPETITION AFFAIRS, MINISTRY OF ECONOMIC AFFAIRS, BEGUIDENBAUTSEWEG 30, THE HAGUE.

(B) AMEMBASSY BERN: PLEASE NOTIFY APPROPRIATE GOVERNMENT AUTHORITIES ABOUT POSSIBLE GRAND JURY INDICTMENT AND COMPANION CIVIL SUIT INVOLVING SWISS FIRM PURSUANT TO THE 1967 OECD NOTIFICATION PROCEDURE ON ANTITRUST ACTIONS. KISSINGER

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